



# World Trade Organization

## Ruling Dooms Dolphins

### *Will Farmed Animals and Rainforest Wildlife Be the Next Victims of “Free Trade”?*

#### WTO INTERIM RULING SUPPORTS DOLPHIN-DEADLY TUNA

Dolphins have been observed to swim beneath schools of yellowfin tuna. For years, pursuit of dolphins has been a method to capture yellowfin tuna for fishing fleets. In order to catch tuna, mile-long purse-seine nets are set around the dolphins. Tens of thousands of dolphins are caught and drowned in tuna nets each year.

Attempts to reduce this problem in the 1972 and 1984 version of the Marine Mammal Protection Act were ineffective in curtailing the problem. Thousands of dolphins were still killed every year. In 1991, Congress created the “dolphin safe” tuna label and in 1992 banned all dolphin unsafe tuna in the US.

In 1991, the General Agreement on Tariffs and Trade (GATT), a panel of unelected professional trade officials who meet in secret without outside appeal or review, determined that dolphin safety standards were an unnecessary barrier to foreign trade. The US resisted this ruling and refused to honor it.

In 1995 the GATT developed into the World Trade Organization (WTO), an institutional body capable of enforcing rulings that a nation’s animal protection and environmental laws violate international free trade standards. Countries who refuse to comply with WTO decisions are obligated pay compensations to the winning country or face severe trade sanctions. Mexico threatened a WTO challenge to the US ban on dolphin unsafe tuna. Under pressure from the Clinton administration Congress caved to Mexico's demands and lifted the ban on dolphin deadly tuna.

According to Public Citizen's Global Trade Watch, "After years of sustained trade law challenges, the Bush administration decided to quietly implement a change to a “dolphin safe” labeling policy which Mexico had demanded as necessary to implement a GATT ruling. (Mexico had threatened a new WTO case if their demands were not met). On New Years Eve 2002, when few Americans were focused on policy matters, the Bush administration announced that it would change the “Flipper-friendly” tuna policy to allow the “dolphin-safe” label to be used on tuna caught using deadly purse seine nets and dolphin encirclement. This regulation is now being challenged in federal court."

In 2004 a federal judge overturned the Bush administration's attempt to destroy the dolphin-safe label and banned the use of the label on dolphin deadly tuna. A federal appeals court upheld the ruling in April 2007.



Dead Spinner Dolphin with tuna net wounds on beak.

In October 2008, Mexico made good on its threat to bring a new WTO challenge to the dolphin-safe label. The WTO established a panel to hear the dispute in April 2009.

In May 2011 a World Trade Organization interim tribunal ruled in support of Mexico’s challenge to the US Department of Commerce’s dolphin safe tuna label, which identifies tuna caught by methods less likely to kill dolphins. If the US is unable to overturn the ruling on appeal, consumers will no longer be able to distinguish dolphin deadly brands of tuna from those that use less dolphin deadly methods to catch tuna. Instead of doing everything possible to fight this ruling, the Obama administration put up a deliberately weak defense of the dolphin safe tuna label at the WTO in order to avoid setting a legal precedent for WTO recognition of environmental rules that could later undermine US efforts to attack other countries’ environmental laws. Instead of protecting dolphins from the WTO, the Obama administration is focusing its energies on pushing Congress to ratify Bush administration negotiated, anti-animal free trade agreements (FTAs) with South Korea, Panama, and Colombia.





Live burial of pigs in South Korea

farming in South Korea make culls like the one conducted early this year inevitable.

**SOUTH KOREA** South Korea's animal and environmental organizations are fighting a tireless battle to abolish inhumane live dog markets, the cruel "sport" of horse fighting, and the barbaric practice of caging live bears for decades and extracting bile from their gallbladders. Adding to this list of cruel practices, in early 2011 these groups were faced with a new horror – the live burial of millions of farmed animals in an effort to curb the spread of avian influenza and hoof and mouth disease as part of a cull of over 10 million animals. Instead of supporting the appeals of groups like Korean Animal Rights Activists, the Korean Animal Protection Society, and Green Korea United to apply international pressure to their government to end these practices, the Obama administration has negotiated an agreement with the Korean government that will allow corporate US animal agribusiness to export its cheaply produced, subsidized, factory farmed products to South Korea without trade tariffs. This will permit these products to enter the Korean market at prices lower than Korea's domestically produced commodities and imports from other nations. Agricultural economists believe this will result in an upsurge in overall consumption of animal products in South Korea. It may also increase the percentage of animals reared for food in South Korea who are raised under factory farm conditions. As lower priced imports have increasingly penetrated the Korean market, Korea's family farms have been squeezed out and Korea's domestic production has shifted towards corporate factory farms which produce animal products in high volume at low cost. Unfortunately, it is precisely these intensive confinement factory farms and the related practice of long distance live animal transport that have contributed to the spread of diseases like avian influenza and hoof and mouth disease. According to Korean Animal Rights Advocates, culls to stop the spread of livestock disease are now annual occurrences in South Korea. An increase in factory

Apparently indifferent to these concerns, the Obama administration is supporting this potentially disastrous agreement under heavy pressure from the animal agribusiness lobby which will enjoy vast financial benefits from the FTA. According to Patrick Boyle, president and CEO of the American Meat Institute, "The U.S. Korean Free Trade Agreement (KORUS), if ratified, would be the biggest shot in the arm to the meat and poultry industry since the passage of the North American Free Trade Agreement (NAFTA) in 1994. According to MeatPoultry.com, an industry website, the US South Korea Free Trade Agreement is "Something to cheer for" and "could be a golden opportunity for meat and poultry processors." According to the National Pork Producers Council, "Conservatively calculated, the FTA will generate an additional \$687 million in U.S. pork exports and would cause live U.S. hog prices to be \$10 higher per animal, when fully implemented, than would be the case if we lost an export market of this size."





**PANAMA** Despite the efforts of animal advocates, environmentalists, and indigenous peoples, the Panamanian and the US governments intend to use the free trade agreement between the two nations to further exploit animals and ecosystems in a nation that already has a terrible environmental record. Substandard environmental provisions only require the enforcement of preexisting environmental laws and the protection of a selected endangered and threatened species. This is of little help when each species (particularly the migratory birds of Panama's threatened wetland areas) depends on networks of ecosystems. The language of the free trade agreement reinforces the weakness of Panama's environmental laws, asking that new environmental standards be "voluntary, flexible and incentive-based," but not rigorous or restrictive.



The agreement contains NAFTA-style state-investor provisions that give US corporations the power to sue Panama for unlimited sums when environmental law enforcement by the Central American nation potentially limits their future profits. At the same time, the trade agreement will give the many multinational corporations domiciled in Panama as a tax haven the right to sue the US government in international tribunals when US environmental law enforcement limits the potential future profits of those corporations. The international tribunals that will arbitrate these cases have a demonstrated history under NAFTA of favoring US corporate interests over other nation's environmental laws. The threat of lawsuits will make Panama more likely to bow to pressure from corporations engaging in projects that threaten wilderness areas, wildlife, and indigenous communities, including the destruction of coastal mangrove forests by the shrimp farming industry, logging, and cattle grazing on indigenous lands.



The trade agreement will facilitate the vast expansion of mining operations, including projects to be conducted on indigenous lands without prior and informed community consent, in direct violation of the UN Declaration on the Rights of Indigenous Peoples. Many of these projects have been mapped out but are not yet active. However under the FTA, if the government cancels mining concessions, even if no money has yet been invested, the corporations can sue for lost profits. Under the state-investor provisions of the similar US-Central America-Dominican Republic Free Trade Agreement, Pacific Rim Mining Company and Commerce Group are suing the Salvadoran government for over 100 million dollars for canceling a gold mining project near the nation's largest river that could have irreparably contaminated the nation's drinking water supply with cyanide, arsenic, and other contaminants. Communities in Panama already face government repression as they oppose extraction projects like the Petaquilla Gold Mine, which, according to the newspaper La Estrella, has "destroyed thousands of hectares of virgin jungle, polluted the rivers and caused the disappearance of fish and wildlife from the area." If the trade agreement is

ratified, the government, facing the threat of a costly ruling in a trade tribunal if it halts an extraction project, will likely become even more repressive and less responsive to community concerns.

As with the KORUS, the Panama agreement requires Panama to drop its tariffs on US agricultural exports, which will allow intensive confinement factory farmed U.S. poultry, pork, and beef to flood the Panamanian market taking the place of locally raised farm animals. Rural Panamanians' primary meat source is domestic poultry, but urbanites eat primarily factory farmed poultry. The National Agricultural Organization of Panama explains the imbalance of U.S.-Panamanian markets, stating, "The FTA proposal will be like stabbing the national farming sector, since it would allow the entrance of subsidized agricultural



products to compete with up to 80 percent of the national market. Competition between two considerably different economies is impossible." As farmers are driven out of business, they will increasingly move to cities and shift to the city diet of factory farmed poultry. This will increase profits for US factory farm corporations rearing animals under horribly cruel and environmentally hazardous intensive confinement conditions. No laws protect the welfare of poultry reared in the US. Colombian peasants will lose the ability to sustain themselves by growing food for their communities.

Continuing the free trade attack on dolphins, the Panama FTA also allows the unlimited, untariffed export of dolphins to US marine mammal parks. According to a letter to Congress from leading environmental groups Amazon Watch, American Lands Alliance, Greenpeace USA, ForestEthics, and Rainforest Action Network, "Despite widespread concern of environmental and animal advocates, the Panama Free Trade



Agreement contains provisions that would make it harder for countries to ban the trade in wild-caught live dolphins and whales. If the Panama FTA is approved, it will become even more difficult to protect those live dolphins that have escaped fishing fleets' deadly tuna-fishing operations, as dolphin capture operations will be empowered to challenge any effort to restrict the capture and export of live dolphins and whales." In April 2007, protests erupted in Panama in opposition to plans by Ocean Embassy, a US based company, to capture 80 dolphins for aquarium display in Panama. Under the Panama FTA this could also mean dolphin capture for US marine mammal parks.

**COLOMBIA** According to Colombian environmental NGO ProAves, Colombia "is situated among the first in biodiversity in the world, occupying first place in birds and amphibians and the second in flora and butterflies." Unfortunately, Colombia's biodiversity is threatened by a trade agreement that prioritizes corporate greed over conservation.

The Colombia FTA itself is intended to stimulate an increase in logging, oil drilling, and mining projects in the Colombian Amazon. Increased Amazon deforestation will hasten the pace of species extinction while contributing to climate change. According to the Associated Press even without the free trade agreement, "capitalist-friendly investment rules are spurring an unprecedented mining and oil boom in Colombia." Unfortunately, mining and oil projects in Colombia by companies including Occidental Petroleum and Drummond Coal are strongly associated with worker exploitation, violations of the rights of indigenous communities, and widespread environmental destruction. According to the AP, a gold mining project, La Colosa, "would require the removal of 600,000 tons of earth daily to extract the gold fragments dispersed underneath the surface — meaning 90,000 tons of cyanide and 250,000 liters (66,000 gallons) of water per hour to distill the precious metal." According to the State Environmental Resource Center, "Cyanide is highly toxic...One teaspoon of a 2% solution can kill a person. In general, fish and other aquatic life are killed by cyanide concentrations in the milligram per liter (part per billion) range, whereas bird and mammal deaths result from cyanide concentrations in the microgram per liter (part per million) range... The hard rock mining industry has a history of cyanide spills, with billions of gallons of cyanide contamination released into the environment, ever since cyanide-leaching began in the 1970s." In Colombia, extraction projects are also a flash point in the nation's decades-long civil war. Rebel groups like the ELN have blown up oil pipelines with disastrous ecological consequences.



Foreign corporations will gain even more advantages under the the Colombia FTA, which contains NAFTA-style state-investor rules that allow corporations to sue the Colombian government when enforcement of environmental laws results in lost corporate profits, offering special rights to corporations involved in the "exploitation, extraction, refinement, transport, distribution, or sale" of natural resources. Thus, the FTA will prevent future governments from canceling environmentally destructive projects begun under the auspices of a series of regimes that have prioritized foreign investment over the protection of wildlife, the environment, or human rights.



December 2008 when, police assassinated Edwin Legarda, husband of Aida Quilcue. Unfortunately, the US government has done nothing to ensure a repeat of the disastrous consequences of the passage of the US-Peru Free Trade Agreement. Increased ecological destruction coupled with increased repression are inevitable if the agreement is ratified.

The agreement will also eliminate tariffs on US agribusiness exports, allowing subsidized, industrially produced rice and factory farmed poultry from the US to flood the Colombian market. Dropping poultry prices will mean a net increase in poultry consumption. A study by Oxfam International suggests that 400,000 farmers will lose between 48 and 70% of their income, while 1.8 million will lose at least 16% of their income. Peasants and indigenous people no longer able to farm are likely enter the lucrative trade in illegal animal trafficking. According to ProAves, "Illegal trafficking is like a pyramid, starting with the peasants or indigenous people who are responsible for removing species from their natural habitat, and forwarding them to an intermediary who carries them away and negotiates either within our country or makes

When the US-Peru FTA went into effect in 2009, the Peruvian government disregarded the agreement's environmental rules and used the trade agreement as a pretext to pass legislative decrees to open indigenous lands to oil, gas drilling, hydroelectric dam, and mining interests. This led to an indigenous uprising culminating in police repression and violence against indigenous communities and a bloody conflict that left both police officers and indigenous people dead. In Colombia, violent repression of opponents of the trade agreement has already begun, even though the agreement has not yet been ratified. In October 2008, police shot 130 marchers participating in the Minga, an assembly in opposition to the trade agreement, environmentally destructive energy and extraction projects, and the theft of indigenous lands. Intimidation tactics used by police include the killing of family members of indigenous leaders, as in

contact with international traffickers who are ultimately responsible for making the sale abroad.” Colombia’s Environmental Ministry reports that an estimated 7 million exotic animals are smuggled out of Colombia every year, 80% of whom die in transport.

Those who do not enter the wildlife trade will be forced to grow coca for the cocaine trade as a matter of economic survival. Prior to the passage of the US-Peru Free Trade Agreement, Archbishop Pedro Barreto, the President of the Episcopal Commission for Social Action of the Catholic Church in Peru warned, “We are certain that the trade agreement will increase the cultivation of coca, which brings along with it a series of negative consequences including drug trafficking, terrorism and violence.” According to the 2011 UN Office on Drugs and Crime (UNODC), Peru has now surpassed Colombia as the leading producer of coca. According to Nobel Prize-winning economist Joseph Stiglitz, ““The United States is spending billions trying to eradicate the cocaine trade and here we are giving them an incentive to grow more coca,”...These are poor farmers who do not have any savings. If their income from corn and rice and other legitimate crops goes down, they will switch to something else, and the most lucrative alternative is coca..” Coca production is a major driver of deforestation in Colombia. According to Colombia University's Earth Institute, “at least 12 thousand hectares of primary forest were deforested in 2008 for coca production, accounting for 25% of the average yearly deforestation in the country. “

Despite reduced spending from previous years, the US continues to fund aerial herbicide fumigation drug eradication programs , which have a well-documented history of indiscriminately spraying legitimate farms, water sources, and undeveloped rainforest along with coca fields. The fumigation program uses the dangerous herbicide glyphosate, According to Pesticide Action Network UK “The US-EPA has also stated that many endangered plants may be at risk from glyphosate use. There may also be cause for concern where glyphosate is used extensively in programmes to eradicate drug producing plants such as coca, opium poppies and marijuana. Glyphosate is sprayed indiscriminately over vast areas and will inevitably kill non-target vegetation some of which may be endangered. The toxicity of glyphosate to mammals and birds is generally relatively low. However, its broad spectrum of herbicidal activity has led to the destruction of habitats and food sources for some birds and amphibians leading to population reductions. Houston toad is an extreme case in that it is now an endangered species due to destruction of its habitat by glyphosate. Fish and aquatic invertebrates are more sensitive to glyphosate and its formulations. Its toxicity is increased with higher water temperatures and pH. Some soil invertebrates including springtails, mites and isopods are also adversely affected by glyphosate.” In addition to the direct damage caused by the spraying, farmers whose crops are destroyed by the fumigation will have no choice but to clear additional Amazon lands to replace the farms they’ve lost.

With 5.2 million internally displaced person, Colombia has now surpassed the Sudan as the nation with the largest number of internally displaced persons on the planet, a crisis that will be exacerbated by the trade agreement. While the FTA will destroy the peasant agricultural economy, it will expand export-driven plantation agriculture for crops like cut flowers, cocoa, African oil palm, pepper, sugarcane, and banana. Armed right wing paramilitaries, eager to cash in on the lucrative expanded export market are violently displacing communities to size land for plantations that contribute to large scale deforestation, worker exploitation, soil erosion, and heavy use of toxic pesticides to kill insects and other wildlife.



## **ACTION URGENTLY NEEDED!**

***Congress is expected to vote on these trade agreements in September.***

***This is our last chance to stop them!***

Contact your Senators and Representatives. You can find their contact info at <http://tinyurl.com/Reachcon>. Call each official and ask to speak to her legislative assistant on trade. Jot down her name and tell her that you are outraged that the WTO’s dolphin-tuna ruling is undermining US animal protection law and that you object to Congress ratifying more free trade agreements that endanger animals. Urge your officials to vote no on the South Korea, Panama, and Colombia Free Trade Agreements and ask if they have decided how they intend to vote on these agreements. Request a response in writing outlining their position on these trade agreements and how they intend to vote on them. Ask for the legislative assistant’s direct contact information (especially email address) so you can follow up on your call in writing. Contact Global Justice for Animals and the Environment to report their responses. Follow up your call with letters, faxes, and emails to the attention of the legislative assistants on trade (use the names you recorded).

For more information or to volunteer, contact Global Justice for Animals and the Environment  
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